

# **Transcript of Hearing**

**Date:** October 21, 2022

Case: CU 22-10; Windridge Vineyards, LLC

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1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1	APPEARANCES
2	FOR MONTGOMERY COUNTY, MARYLAND	2	
	x	3	
	In Re: : Case No.	4	Hearing Officer
	Windridge Vineyards, LLC : CU 22-10	5	22227 2477
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7	UELDENIA	7	Applicant
8	HEARING	8	DODEST D. HUDOVO FORHITOE
9	BEFORE HEARING EXAMINER LYNN ROBESON HANNAN	9	
10	Conducted virtually		Counsel for the Applicant
11	Friday, October 21, 2022	11	
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PROCEEDINGS 1 testimony. 2 2 (Whereupon, the court reporter was duly MS. ROBESON HANNAN: Okay. Well then I think 3 sworn.) the best thing to do would be to -- for you to proceed. MS. ROBESON HANNAN: I'm calling the case of CU You don't have any other -- you don't have any witnesses 2210 Windridge Winery at 15700 Darnestown Road, other than Mr. Butz? Germantown, Maryland. Would you identify yourself for the 6 MR. HARRIS: No, ma'am. We did not think it was record, please? necessary because this is really just putting a new name 8 MR. HARRIS: Good morning. For the record, this on an existing operation and Mr. Butz owns the land. He is Bob Harris with Lerch, Early, Brewer, the applicant's operates it. He knows more about this facility than any 10 attorney. 10 10 other people combined. MR. BUTZ: And I'm -- I am Robert Butz, the MS. ROBESON HANNAN: Okay. Well, we'll -- let's 11 11 12 applicant. 12 proceed and we'll figure everything out, all right? Did 13 MS. ROBESON HANNAN: Okay, thank you. Now I 13 you bring pictures of the sunset? I'm teasing. 14 have one question. Is that painting one of your glorious MR. HARRIS: Nope. 14 15 sunsets behind you? 15 MS. ROBESON HANNAN: I've been -- I've been MR. HARRIS: I -- I don't know how to describe 16 visualizing -- is it -- the setting for, as I've been 16 17 it, but it does look like that, particularly with the sun 17 looking at the plans. But anyway, why don't you just go 18 coming in through the window. I had nothing to do with 18 ahead. Are you going to put Mr. Butz on right now? 19 it. MR. HARRIS: In -- in one second, just, you 20 MS. ROBESON HANNAN: Okay. All right. So are 20 know, as -- as a little further clarification to help, you 21 there -- I have one preliminary matter. There's been a 21 know, get -- get your mind focused on what -- what's 22 little bit of confusion. I looked at the staff report and 22 actually out there, what's approved. So the original 23 that does not have that 5,000 square foot tasting room 23 operating statement that we submitted with the 24 reproduced, so I'm not sure that they ever reviewed it. 24 application, mentions that, you know, the -- the property 25 And so what -- I did send an e-mail to staff this morning, 25 is going to have the, you know, the -- the existing 8 1 you know, forwarding that because I'm required to refer it buildings, but then that it would include construction of back to staff for any additional review if it differs from a tasting room approved under the preliminary plan. And what they reviewed. when -- when you go back to the preliminary plan and --MR. HARRIS: Okay. and the -- the staff report for it, it talks about a 5,000 5 MS. ROBESON HANNAN: Do you follow what I'm square foot tasting room. And so --6 saying? 6 MS. ROBESON HANNAN: Right. Right. MR. HARRIS: I do, and I hope that we will be 7 MR. HARRIS: Mr. Butz, explained that. So -- so able to clear this up with you today, and to the extent what we are proposing and what Exhibit -- the new exhibit 9 necessary, with -- with Park and Planning staff. You shows is really within the -- the -- the -- the 10 know, and -- and -- and in that regard, again, I 10 approval for the preliminary plan. No, it does not exist 11 apologize, I'm the one who unfortunately created some of 11 today, but the preliminary plan could be implemented today 12 this confusion here. I -- I did not, you know, look 12 without the need for the Country Inn approval. It -- it 13 carefully enough that the various drawings and -- and the 13 really would just be what -- what kind of activities can 14 operations. I thought I knew everything about it because 14 occur, what kind of beverages can be served within the 15 I've been to the facility before, but it turned out I did 15 facilities that are already approved. So it -- I'll let 16 not. 16 Mr. Butz explain it further and -- when we get into it. 17 And so -- but again, we will clear that up and 17 But first I -- I'd ask, Mr. Butz, if you would -- I'm -- I 18 -- and along that line, I -- you know, and -- and a double 18 beg your pardon. Let me ask one thing. I don't remember 19 apology, I don't know how I sent you the wrong exhibit 19 whether witnesses need to be sworn in here or not. 20 yesterday. You were entirely correct that it was just 20 MS. ROBESON HANNAN: They do, so I was just 21 another copy of Exhibit 8. So when I got in my office 21 getting ready to do that. Mr. Butz, could you raise your 22 right hand. Do you solemnly affirm under penalties of 22 early this morning, I did forward what I thought I had 23 forwarded before, that is the one that you're referring to 23 perjury that the statement you're about to make are the 24 that shows the 5,000 square foot tasting room. And then 24 truth, the whole truth, and nothing but the truth?

MR. BUTZ: I do.

25

25 we'll -- we'll -- we'll get into that through Mr. Butz's

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9
EXAMINATION OF MR. BUTZ BY COUNSEL FOR THE APPLICANT 1 bit

BY MR. HARRIS:

Q Okay. Thank you, Mr. Butz. So can you tell us

a little bit about your family's history in -- in farming

5 here and on this property?

A Yeah, sure. So briefly, I'm a – I'm a lifelong

farmer here in Montgomery County. I actually grew up at

8 the farm right next door. My brother still lives in the

same farmhouse that we grew up in. The farm where the

10 winery sits, it's been in my family's - been in my

11 family's name since the 60s. And as a kid, I basically

12 have continued - I've continually farmed those - those

13 lands for my whole career.

14 Really, farming's been the only career I've ever

15 had outside of some odd jobs in college and whatnot. I -

16 I came home, took over the family farm from my mother, and

17 then I and my three other brothers have run it

18 continuously really for the last 30 plus years since then.

19 So you know, about - I guess about 15 years ago

20 now, my -- my wife and I were sort of trying to think

21 about, what does the future of Windridge Farm look like?

22 Current - our current Windridge Farm operations, which

23 still exist, are - are pretty traditional commodity

24 crops, right? So we grow corn, wheat, soy, hay, barley,

25 you know, all those different - different kinds of crops.

1 bit challenging because although the - although the

2 zoning – the agricultural zoning allowed for a farm

3 winery, because it was a greenfield site and there was no

4 existing building, there was really no pathway for me to

5 build a – a – a farm alcohol or a retail building in an

6 agricultural zone. So I actually had to apply for a full

7 commercial building permit on that site and worked -

8 worked extensively with Park and Planning and DPS to get

9 that done. We were the first project to ever go through

10 that process. And since then the law's been changed to

11 allow retail buildings on -- as part of accessory uses.

12 And, so I - I may be one of the last to go through that

13 process, but I think – I think as it relates to – I –

14 I'd like – can I speak a minute on this 5,000 –

15 Q Sure.

16 A Yeah. So I think it might be a good time to

17 talk about that. So we worked really hard to - to

18 develop a pre preliminary plan or a preliminary plan based

19 on kind of our vision what the - of the site was. But

20 then in — in the — in-between the time that we got that

21 preliminary plan approved and we wanted to start

22 construction, COVID hit. And for a whole bunch of

23 reasons, it was just not feasible for us to build a 5,000

24 square foot standalone tasting room at that time for —

25 for budgetary reasons and - and not understanding what

10

But doing that farming kind of requires access to large 1 COVID meant.

tracts of land that are in close proximity to each other.

3 And that's getting tougher and tougher to do in — in

Frederick and Montgomery Counties.

And, so, you know, we — we were like, okay, well what does the future of Windridge look like? And —

and we sort of hit on grape growing as an alternative. So

3 12 years ago we planted our first vineyard, and my plan

9 was honestly just to sell fruit in the local market. And

10 we did that for about five years, but then along the way,

11 I guess – the – the way that I tell my customers is I

12 sort of got – sort of covetous of the fruit, right? I –

13 I felt like I was growing good fruit and I wanted to try

14 to make wine.

15 And, so in 2017 we made our first Vintage of

16 wine and then started selling in 2019 out of a small

17 pavilion building on that farm where the winery building

18 is now. And then in 2020 we built a new winery and

19 tasting room and — and the facilities you see there now.

20 Q And so let -- let's turn back to 2019 then. Is

21 that when you got the preliminary plan approval from Park

22 and Planning to -- to -- to build the -- the winery and --

23 and wine tasting room?

24 A Yeah, so – so that's correct. So I think it

25 might be useful to understand our case has always been a

COVID meant. And so what we did is we built a much

2 smaller tasting room over top of the existing winery and

3 that that tasting room is 1,500 square feet. So it's a

4 fraction of what - of what our vision was. And - and

5 we've been operating that way ever since. But our vision

6 always was to have a more developed tasting room. We -

7 we aspire to sell fine wine and deliver excellent service

8 to our customers and, you know, we aspire someday to – to

be able to do that in that new building.

10 Q And so was -- was that construction of a 5,000

11 square foot tasting room approved under the preliminary

12 plan in 2019?

13 A Yeah. No, it - it was. Absolutely, it was

14 approved, yeah.

15 Q Okay -- okay. And -- and the winery and the

16 barrel room as well that was all approved?

17 A Yep. Yeah.

18 Q And -- and the parking and the access, is that

19 all the same as well?

20 A Yeah, it – it is. All of those things were

21 approved and – and any deviations from the preliminary

22 plan, like whether – whether it be parking or whatever,

23 that was all done with consultation of — of staff and —

24 and all of that. So we, you know, I kind of pride myself

25 in walking through the front door as opposed to sort of

16

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13

1 begging for forgiveness later, so.

Q And I believe you, as part of the preliminary

plan, you had the peripheral approvals for forest

conservation and storm waters and --

A Yes --

O -- all that?

A Yes. All of that, all of that was approved.

8 Yeah.

9 Q All right. So --

10

11 consultant for other wineries after this. Although, that

12 would be your competition, so I take it back.

13 MR. BUTZ: Right.

14 MR. HARRIS: Well I -- I keep begging him to

15 teach me more about it because my wife likes fine wines

16 and we enjoy the facility there and, so I -- now I can

17 claim my own -- I know a winemaker, and it -- it's

18 elevated my stature greatly.

19 BY MR. HARRIS:

Q All right, so -- so let's talk about where you

21 want to go from here, you know, this -- the -- you want to

22 -- are you saying you want to build the 5,000 square foot

23 wine tasting room at some point in the future?

A Correct. I have -- I have no short-term plans

25 to build it, but definitely in the future I'd like to do

14

1 it. So the — the primary driver for the Country Inn was

2 really to allow us to deliver better service to our

3 customers in our existing operations. The existing class

4 four winery license has a number of odd restrictions that

5 make it difficult for us to deliver what we want to

6 deliver to our customers. But, yes, to be clear, I – I

- I do someday want to build that - that building.

Q Okay. And assuming you obtained the Country Inn

9 conditional use and the Country Inn liquor license, about

10 which you spoke --

A Right. 11

Q To what exchange -- extent will the operations

13 change? Will it be the same parking area that you have

14 now?

15 A Right. Yes, so - right, same - same parking

16 area. Yes, absolutely.

Q And with the exception of the 5,000 square foot

18 tasting room, that again was part of the preliminary plan,

19 it'll be the same building facilities as well?

20 A Yes, yes.

21 Q Do -- do you expect to use the same number of

22 employees?

23 A Yes.

24 Q Have you -- do -- do you expect any increase in

25 the number of customers and traffic or will it be the same

1 customers?

A No, it'll be the same customers. And I'm

actually - so - so we work largely on a reservation

system. And, so I – I actually think that net – net we

will have fewer customers coming across the gate because I

will be able to offer more services to those customers and

they'll stay there longer. I - I can offer them a, kind

of, a more complete experience. And that's really my

goal. My - my goal is to offer - I don't - I don't -

MS. ROBESON HANNAN: You may need to -- to be a 10 I don't need more customers; I just want to do a better

11 job in serving the customers that I have.

Q Have you had some concerns from customers about

13 food or -- or -- or things like that? Is that what

14 you're, is driving what you're saying?

A Yeah. Yeah, absolutely. And so if you - if

16 you look on Yelp, and it was just interesting that this

17 happened when I went in front of the planning board, what

18 was that? Two weeks ago? Literally the day before I was

19 going in front of my planning board hearing, I got a

20 one-star review on Yelp and the -- the main focus on the

21 review was the fact that the food trucks ran out of food.

22 And, although, I try to tell everybody I can't control the

23 food trucks, it still reflects on me when they deliver

24 poor service to my customers.

25 Now, in - in fairness, that reviewer then went

down to torch my wine down completely and all of that, so

that was part of the one-star review. But to me it just

really – the review really just highlighted – and if you

look back through our reviews, you'll see periodically, no

food, no options, all they had was water, the food truck

was unreliable. And - and like I said, I just - I'm

constantly struggling having to deal with that.

8 MS. ROBESON HANNAN: Okay.

9 Q The -- well, based on your experience operating

10 the winery, have you ever observed any traffic problems on

11 Darnestown Road getting in or out?

A No, I – I haven't. No, I have not.

Q The -- how -- I -- having been there, I know

14 that you have live music on Friday nights, has that ever

15 posed a problem for you?

A We have never received a noise complaint. And

17 if you look at the statute, I'm not allowed more than 55

18 decibels on my property edge. And if - if you look up,

19 there's a – a chart that shows you, kind of, like what

20 that means. But I mean that's - that is quiet

21 conversation at the property edge. It's - it's a very,

22 very low standard. So Country Inn or not, I have to meet

23 that standard.

Q And have you spoken with the agriculture folks

25 in the county about their thoughts on your operation?

Either both now and in the future?

A Yes, they are. The Office of Agriculture is supportive of my application, yes.

MR. HARRIS: Okay. Ms. Hannah, I -- I don't want to shortcut this, but as I said at the outset, subject to answering any questions that you have and clarifying the confusion that I created, I -- I would, you

8 know, be prepared to go right to Mr. Butz's conclusions on

9 the primary findings that you need to make based on,

10 again, his experience running this for two years. It's --

11 it's -- it's a unique situation for me. I've never

12 applied for a conditional use where it's a conditional use

13 for an existing operation and it's really just, you know,

14 changing the -- the name of it and what that allows to --

15 to go on there. So I think Mr. Butz --

MS. ROBESON HANNAN: Let me make -- I 17 understand, and I'm sorry to interrupt. Let me just --18 explain a little bit why we're asking for more specificity 19 on the existing operations and it's because I don't know

20 what the -- I have to make findings, like, you know,

21 there's enough parking or, you know, that -- whether

22 you're going to have large events in peak hours, and those

23 are all to address potential adverse impacts of the use.

So if you're going to have unlimited number of

25 people during a weekday, your statement -- one of your

1 additional buildings. The --

MS. ROBESON HANNAN: But I have findings of fact

3 to make that are different from -- I understand because

4 it's confusing because you have a preliminary plan

5 approval, but I have findings of fact to make that are

6 different, that don't relate to the preliminary plan. So

7 when you pull in a conditional use, the conditional use

8 looks at the impacts of the operation on neighboring

9 properties. So I'm not saying there are adverse impacts,

10 I'm just saying, I need clarification of what you're doing

11 in order to make the findings because the findings here

12 are different than the preliminary plan.

MR. HARRIS: Okay. All right. Well let --

14 let's break them down into in -- individual components.

15 Perhaps the one that, you know, stands out the most, that

16 is typically important to understand is the traffic

17 impact, okay?

18 MS. ROBESON HANNAN: Right.

MR. HARRIS: And -- and I think we both agree

20 that that traffic impact was examined as part of the

21 preliminary plan. And -- and the --

MS. ROBESON HANNAN: Well -- I'm sorry I keep

23 interrupting.

25

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MR. HARRIS: No, go ahead.

MS. ROBESON HANNAN: I apologize.

1 statements says that you have large events on Fridays

2 between 1:30 and 8:00. So what I'm asking, and -- and I

3 did get something from Mr. Harris saying, well, that's

4 spread out, but we have to be very specific, so DPS -- I

5 can't just approve existing operations when nobody wants

6 the -- nobody knows what the existing operations are. And

7 I need to know what they are in order to make the findings

8 that I need to make. So with that --

MR. HARRIS: Okay.

10 MS. ROBESON HANNAN: -- go ahead. If for

11 instance, you know, you want to keep the existing

12 attendance, well, what is the existing attendance? You --

13 you follow? This is different than the preliminary plan

14 and it looks for different things. And so what we're

15 looking at is the impact, the potential impacts of this 16 use on the surrounding area.

MR. HARRIS: Okay, I -- I appreciate that. But

18 let -- let me understand a little better because the --

19 the -- the physical facilities that would be operating

20 under this are exactly the same physical facilities that

21 are approved today. Not -- not all built, again, the

22 5,000 square foot tasting room -- room was approved under

23 the preliminary plan and could be built tomorrow, with or

24 without this conditional use. And -- and Mr. Butz is not

25 planning anything in addition to that, you know, from

MR. HARRIS: No, I want an answer to this part.

MS. ROBESON HANNAN: LATR is different because

we -- that looks at the roadway capacity, all right?

MR. HARRIS: Okay.

5 MS. ROBESON HANNAN: So -- so that's one thing.

But we look at are there cues, is there, you know -- and

7 I'm not saying any of that exists, I'm just saying I have

8 to address it. So if you're having a large event in the

9 peak hour, like I have to be able to say, But there won't

10 be cues and the access will be safe and there won't be

11 temporary congestion. This is -- it looks at different

12 traffic impacts.

13 BY MR. HARRIS:

14 Q Okay, fair -- fair enough. And I -- I think,

15 you know, that you may have just touched on a word that

16 needs to be clarified. It's not events as much as the

17 operation of the -- the winery. People come to the winery

18 to enjoy the wine in the scenery, et cetera. It's not an

19 event, it's -- it's like a restaurant, okay? You can --

20 although, you said you do have some special events.

21 What's the size of those events?

22 A Less than a hundred. Yeah, I mean average –

23 average event size is maybe 20, 25 to 40 people. And even

24 if – even – let's say, if we make an argument that I

25 build this new building, that building is still not large

19

23 1 enough to house a very large event anyway. And – and impact your future approval, it just says for now. 2 also our, you know, it's a practical matter, our septic MR. BUTZ: Okay. 3 systems can't handle large events. I mean there – 3 MR. HARRIS: Okay, so --4 there's certain – there's certain bounds around – 4 MS. ROBESON HANNAN: You follow what I'm saying? 5 regardless of the zoning on this property about what I can 5 MR. HARRIS: I want to make sure I do because I 6 and can't do, that I think gives sort of inherent don't want to paint Mr. Butz into a corner, you know -protections to my neighbors, you know, I - I can't - I MS. ROBESON HANNAN: Neither do I. 8 can't emit noise pollution beyond my property edge. I 8 MR. HARRIS: Yeah, he -- he wants the Country can't emit light pollution beyond my property edge. Inn for the reasons already stated. In an interim period, 10 Because I'm on well and septic, I have defined seat counts 10 it will really be the same operation as it is today, but 11 that – that have to be met for purposes of – of – of – 11 offering additional alcohol. In the longer term, it will 12 of my septic approval, right? And – and those things 12 expand to what is already approved, but -- but not beyond 13 taken together -13 what was in the preliminary plan, so. And that may MS. ROBESON HANNAN: I couldn't understand --14 include, at some point in time, expansion of the septic 15 you have to meet what counts? 15 systems. We don't want to be prevented from doing that or MR. BUTZ: So -- so like I have -- because I'm 16 saying, Well, you can only use a new septic system for the 17 on well and septic, right? 17 winery, you can't use it for the Country Inn. That would 18 MS. ROBESON HANNAN: Yeah. 18 be, you know, impossible to monitor anyway. 19 MS. ROBESON HANNAN: Understood. I -- I do MR. BUTZ: My septic system is designed and 20 engineered to accommodate a certain number of seats. So 20 understand. Let me explain how the process works. If and 21 I'm -- I'm not on a public sewer, so there are only so 21 when you decide to do the larger commercial kitchen, you 22 many, quote unquote, seats I can have on this property 22 would come back for an amendment to this conditional use 23 regardless. And so those -- those things put, you know --23 approval. 24 they're kind of protections in place for my neighbors. 24 Now, we have two types of amendments. We have a 25 Even if I wanted to be a bad actor or somebody, you know 25 major amendment and a minor amendment. If one is an 22 1 -- it's just there -- there -- I guess -- I guess what I'm administrative process and the other requires a hearing, 2 saying, yeah, there are these protections in place but I don't want to -- what we're doing today is simply regardless of whether the zoning has changed or not. approving what you have available right now, okay? It MS. ROBESON HANNAN: Do you know what the cap on 4 doesn't preclude you from coming back and getting approval 5 seats is? for the larger part, okay? I can't -- I can't approve the 6 MR. BUTZ: Currently, it's -- I'll have to look commercial kitchen because that was never reviewed or it up. It's -- it's in my plan. anything by staff. MS. ROBESON HANNAN: Somewhere -- okay. I just Now, you could come in, you could amend your -- this is very helpful to me because the statements of application to include the commercial kitchen, all right? 10 justification did not specify all that -- this. So what I 10 Amend this application to include the commercial kitchen 11 could do is, for my purposes to say, okay, this is the 11 and do it all at once, but you only have two years. Well, 12 existing operation, or I could put a condition saying 12 you may be okay with that because you're building the --13 large events are limited to the number of seats permitted 13 you're building the -- the tasting room. 14 by your septic capacity at present. So you could amend your application now. 15 MR. BUTZ: So I do have approval for another 15 Unfortunately, you would have to go back to staff -- well, 16 it may have to go back to staff anyway because I'm not 16 septic field, you know --17 MS. ROBESON HANNAN: I know that -- but --17 sure they were aware of the 5,000 square foot tasting MR. BUTZ: -- but --18 room, but you could try for it all now. Or you -- or you 18 MS. ROBESON HANNAN: -- when you go to the 19 could come back for an amendment to the conditional use at 19 20 commercial -- when you move to the commercial condition --20 a future time.

21

So where you are position-wise right now is you 22 would be able to build the tasting room with, you know --

23 so that I know the operations for the conditional use that

25 traffic, you know, congestion, there's no lighting impact,

24 I can make the finding that there's no noise, there's no

21 kitchen, I'm sorry. When you move to the commercial

MS. ROBESON HANNAN: So -- so this doesn't

22 kitchen, you're going to have to modify this. MR. HARRIS: That's right.

MR. BUTZ: Right.

23

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all that kind of stuff. So those are the options here. 2 MR. HARRIS: Okay. Let -- I -- now you -- you 3 actually raised a concern in my mind because if -- if by example, if I were to come in and I wanted to -- to build a -- a new Country Inn, had nothing on the ground, okay? Just a piece of dirt. I could tell you what I wanted to do and you could approve it. It wouldn't have to be on the ground at the time of your approval. MS. ROBESON HANNAN: No. No. 10 MR. HARRIS: 99 percent of conditional uses 11 don't exist when the applicant (crosstalk) --MS. ROBESON HANNAN: You're right. 13 MR. HARRIS: -- in. So we actually have a more 14 advanced situation here because 90 percent, just to pick a 15 random number, of what will be there under the conditional 16 use, already is there. Compared to a typical case where 0 17 percent is there. So we have excellent evidence as to 18 what the impact of this conditional use is. We're not 19 speculating, we're not asking a -- you know, somebody to 20 opine on something. We have actual facts from two years 21 of operations. And -- and -- and, so I -- you know, I do not 23 think that we should need to come in and seek an amendment 24 to the conditional use. We're looking to get the -- the 25 conditional use approved now for 100 percent of what was

MS. ROBESON HANNAN: -- this does not approve 1 the commercial kitchen. I have no ability to approve a commercial kitchen that -- is that going to add to the 5,000 square feet? 5 MR. HARRIS: No -- no, the commercial kitchen would be within the existing structure, so that's where staff is correct, it doesn't --8 MS. ROBESON HANNAN: The winery -- the winery --MR. HARRIS: The wine -- the wine tasting room 10 would be the only additional structure. MS. ROBESON HANNAN: But that doesn't exist. 11 12 Okay, I understand. 13 MR. HARRIS: Right. So -- so, again, the 14 application and the statement we submitted talked about 15 converting the existing, I'll call it catering kitchen to 16 a full kitchen, okay? And that we already have the septic 17 approval for that because again, that was reviewed as part 18 of the preliminary plan. So just to be perfectly clear, 19 we are asking for that to be part of this approval because 20 it already is approved. And -- and whether it's --21 MS. ROBESON HANNAN: The problem -- it's -- the 22 mix up is, it's approved as a preliminary plan. It's not 23 approved as a conditional use. Think of a conditional use 24 a little bit at the same level of detail as a site plan 25 because there is no site plan and conditional uses because

1 approved already in the preliminary plan. And that, you

2 know, our operating statement that we submitted said that.

And so I -- I don't know why we shouldn't be able to get

4 that approval. That's what we have always been asking 5 for.

6 MS. ROBESON HANNAN: Well, staff -- the staff report said there's no changes to existing conditions. Staff clearly was under the impression that you don't even

MR. HARRIS: Okay -- they -- I'm looking at 10

11 their status report and I -- I see what you're saying.

12 It's -- it says, adding this additional use while

9 want the 5,000 square foot tasting room.

13 utilizing the existing structures and site conditions,

14 with no proposed exterior changes, will allow us to do

15 blah, blah blah, but they -- in that report, they also

16 note that there is a 5,000 square foot tasting room

17 approved. So there was some --

MS. ROBESON HANNAN: But they are under the -- I

19 think they are under the impression, and I just -- I just

20 sent an e-mail this morning and you -- you're CC'd and

21 saying, Is this what you recommended approval of on your

22 status report?

23 MR. HARRIS: Okay.

24 MS. ROBESON HANNAN: So -- so this is --

25 MR. HARRIS: Yeah. they combined the conditional -- when you have a

conditional use. So if you have new construction, even if

it's internal, there's additional things you have to

submit, like floor plans, you know, you have to show in

detail how the -- the thing is going to work, okay?

6 And I'm not making this up to be hard on Mr.

Butz at all. It sounds like he's been in the forefront.

I -- I really do admire, it seems to me, that you've been 9 in the forefront of surviving as -- as an agricultural use

10 and keeping your property in the family hands. And that's

11 -- that's great.

12 But a conditional use requires different

13 findings. It would need a floor plan to show how it

14 works. They usually have a fire access plan. So I'm just

15 saying, it's -- the preliminary plan is -- you're

16 comparing apples and oranges. So if you want -- this is

17 my suggestion, if you want to take -- do you understand

18 what I'm trying to point out? It's -- it's not approved

19 as a conditional occupational use.

20 MR. HARRIS: I -- I understand the conditional

21 use is not approved, but what I'm saying is that if -- if 22 -- well, I'm trying to think of an analogy. We are only

23 seeking conditional use for the physical facilities and

24 the impacts that we already have. So I --

MS. ROBESON HANNAN: Well, I guess the 25

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1 commercial, what is the commercial kitchen -- what are the

2 impacts? Do the impacts of the -- well first of all, if

3 you're seeking the commercial kitchen, that has to be

4 shown in a floor plan in the conditional use. Second, I

5 don't think, I really don't think, staff understood that

6 this was the case.

MR. BUTZ: I think if -- if I could interject

there a little bit. The commercial kitchen has already

9 been approved, right?

10 MS. ROBESON HANNAN: That's --

MR. BUTZ: Because I have a commercial building 12 permit.

MS. ROBESON HANNAN: No, it hasn't.

MR. BUTZ: It has because it was part of my

15 commercial build. The commercial kitchen has certain

16 restrictions on it. The restriction is -- is that I can't

17 have a grease trap because that impacts my septic flows.

18 MS. ROBESON HANNAN: Right. Right.

MR. BUTZ: So if I want to upgrade the level of

20 the commercial kitchen, I have a HACCP rated commercial

21 kitchen in that building today. The issue is -- is if I

22 want to upgrade that from a warming kitchen to a kitchen

23 with a fryer or something else that would require a grease

24 trap, well and septic weighed in as part of my

25 application, and they -- and I acknowledged and agreed

that I would have to upgrade my septic system and put in

2 the new septic field. So the commercial kitchen exists.

3 The issue is just whether it would be upgraded.

MR. HARRIS: To -- to me it's pretty much if --

if I wanted to convert my house to a Country Inn, I would

6 have to seek a Country Inn use permit, but I would use the

7 same kitchen. And, so I, you know, I -- I -- I would

8 simply say, Here's my house. And -- and -- and I don't

9 think it would be necessary for the hearing examiner to

10 look at, Well, your kitchen is this dimension or that

11 dimension, it -- that's really irrelevant. It's the

12 impact of the overall operation. And -- and that, I

13 think, is, you know, again, here demonstrated by the fact

14 that we've got this operation existing today. Whether

15 they're serving sandwiches or a cooked meal doesn't change

16 anything other than a customer satisfaction.

MR. BUTZ: And I -- I think it's also, it should

18 be noted that -- that I could build that 5,000 square foot

19 tasting room and put a commercial kitchen in it without a

20 Country Inn use designation.

21 MS. ROBESON HANNAN: I know that.

22 MR. BUTZ: That -- that --

MS. ROBESON HANNAN: I'm trying -- I'm trying to

24 tell you what I need to make findings on. You don't have

25 some of the required information. If you have the plans

1 for the commercial kitchen, then submit them because

2 they're required.

MR. BUTZ: Well --

4 MS. ROBESON HANNAN: And I'm not -- I'm really

5 not trying -- I'm really not trying --

6 MR. BUTZ: You have my -- you have my building

plans of my existing kitchen.

MR. HARRIS: Look, let me -- let me try this --

9 MS. ROBESON HANNAN: I don't in this record. I

10 don't have them in this record.

MR. HARRIS: Let me try this. So -- so there

12 are the -- the specific -- the general findings that you

13 have to make. There are some, you know, six or eight,

15 have to make. There are some, you know, six of eight,

14 okay? You -- perhaps if we walk through those and then

15 you let us know what other findings beyond those you --

16 you believe you have to make and we'll see if we can --

17 can find them. Because, for instance, I think condition

18 -- element one, satisfy any applicable previous approvals

19 on the subject site. You know, I think --

MS. ROBESON HANNAN: Well, that's fine.

MR. HARRIS: -- we can even state them.

MS. ROBESON HANNAN: Okay, well let me say this

23 --

MR. HARRIS: Could we walk through those? Would

25 that help?

1 MS. ROBESON HANNAN: Let me say -- what I'm

going to do is this: you need to submit floor plans for

3 the 5,000 square foot tasting room. I don't make this up,

4 okay? This is -- this is for the new one. For the one

5 that doesn't -- it's approved, but it doesn't exist, all

6 right? So you need to submit floor plans.

MR. HARRIS: Okay.

MS. ROBESON HANNAN: Then I'm going to refer it

9 back to staff because I don't think staff understood that

10 this -- I'm required, if there's changes or if it isn't

11 what they thought they were approving, I'm required to

12 send it back to staff. And Mr. Butz, I see you looking

13 frustrated, but this is my name on the bottom line here

14 and I have to make sure --

MR. BUTZ: My -- my frustration is irrelevant.

16 It -- it's right. No, I understand that.

7 MR. HARRIS: We -- Ms. Robeson, we want you to

18 be entirely satisfied. We recognize your role here, and

19 -- and I want to try to do as much of that, if not all of 20 it, today if we can.

21 MS. ROBESON HANNAN: Understood.

22 MR. HARRIS: If we can't --

MS. ROBESON HANNAN: So you can -- you can --

24 what I'm going to do is pull up the zoning ordinance and

25 ---

35 MR. HARRIS: That would be useful. And then we 1 of them because, again, they were the ones who reviewed 2 can walk through it, and we can see the extent to which we the -- the original plans for the preliminary plan and can satisfy your requirements to -- to -- to make those didn't have a concern then, and -- and then come back to findings. you. Alternatively, if -- if Mr. Butz would prefer, we MS. ROBESON HANNAN: But I still need to -could simply table the 5,000 square foot tasting room, and okay. Let's go back one minute, okay? Just -- so you in that case there would be zero change to any of the, you have a tasting kitchen, where is the tasting kitchen? In know, buildings. All the existing buildings would remain. 8 the winery? Are -- are both of those options appropriate, Ms. MR. HARRIS: In -- it's --Robeson, or --10 MS. ROBESON HANNAN: I mean the warming kitchen. 10 MS. ROBESON HANNAN: You can do either -- you 11 can do -- you can do either. The other -- the other 11 MR. BUTZ: Yes. MS. ROBESON HANNAN: The warming kitchen. So 12 12 option is take -- you know, I know you -- your -- I don't 13 the warming kitchen --13 know how immediate your thing is. The other option is to 14 14 clearly delineate what you have approved on the MR. BUTZ: In the winery. 15 MS. ROBESON HANNAN: Let me -- let me go back 15 preliminary plan, including commercial kitchen and get it 16 here a second. Oh, I just clicked out of that. Just give 16 all done at -- at once. Which would mean --17 me a moment. 17 MR. HARRIS: Robert, personally, I think that 18 MR. HARRIS: Uh-huh. 18 would be --MS. ROBESON HANNAN: Okay, now I'm going to --19 MS. ROBESON HANNAN: -- which would mean --20 to share my screen. Okay, I'm showing Exhibit 30. Do you 20 MR. HARRIS: -- more efficient. 21 see this? 21 MS. ROBESON HANNAN: What? MR. HARRIS: Yes. That's the existing -- oh, 22. MR. HARRIS: No, I'm sorry, I was following up 23 Exhibit 30? Oh yeah, that's what I submitted this 23 Robert here, but to see what he wants to do. 24 morning. Yes. That -- that's the one that shows the --24 MS. ROBESON HANNAN: Well, do you want to go off 25 the proposed tasting room, yes. 25 the record for like 15 minutes and -- and then you --36 MS. ROBESON HANNAN: Okay, so you have a tasting you-all can discuss it and -kitchen in this -- in the -- in what's marked as the MR. HARRIS: That would be great. That -existing winery? that's a perfect suggestion. MS. ROBESON HANNAN: If you need more time, tell MR. BUTZ: A warming kitchen, yes, correct. 4 5 MS. ROBESON HANNAN: I mean -- I keep saying a me. tasting kitchen. Yeah. Okay, so we have that. So what's 6 MR. HARRIS: No -- no. five minutes should do going to be in the 5,000 square foot tasting room? Just it. If -- if we can come back then. seating? 8 MS. ROBESON HANNAN: Well, I said 15, so I --MR. BUTZ: I don't know. I haven't -- we 9 I'll give you 15. We'll go off the record. 10 haven't gotten close enough to imagining what that space 10 (Off the record.) 11 looks like yet. 11 THE REPORTER: Okay. Recording is started. 12 MS. ROBESON HANNAN: Okay. But if you look at MS. ROBESON HANNAN: Thank you. Mr. Harris, did 13 731-B of the zoning ordinance, all right? 731-B. Okay, 13 you have -- let me stop sharing my screen. Did you have 14 it says, The applicant -- If exterior changes are 14 the opportunity to discuss what you would like to do? 15 proposed, you need footprints, ground floor layouts, and 15 MR. HARRIS: Yes, ma'am. And I think this will 16 heights of all buildings and structures. So -- so -- and 16 greatly simplify all of our jobs today. Mr. Butz will 17 they ask those for a reason, so they can get an idea of 17 table the 5,000 square foot wine tasting room proposal. 18 what the impacts are going to be. Now, I know you're on a 18 That -- and would come back in for an amendment to the 19 40-acre property, but it's still part of the application 19 conditional use whenever he is ready to proceed with that, 20 process. So if you have new construction, then you have 20 and at that time we'd have plans for it to satisfy you. 21 to submit that. 21 In the meantime, we would like to simply obtain 22 MR. HARRIS: All right, well we've got two 22 conditional use approval for the -- the existing 23 options then. One, we could prepare those and continue 23 facilities on the property, as -- as they are today, but

25

24 allow them to be used for Country Inn purposes.

MS. ROBESON HANNAN: Okay. To enable you to

24 the hearing until we submit those and have them reviewed

25 by staff. I -- I anticipate no problem with staff review

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2 MR. HARRIS: Yes, ma'am.

3 MS. ROBESON HANNAN: Okay, so assuming that's

it, I still need a little bit of clarification on the

conditions -- on the operations. So if I have a condition

change the liquor license and other -- other things?

6 that simply says, you'll have the number of seats allowed

7 by your existing septic capacity, are you okay with that?

8 MR. HARRIS: I -- I don't know what that number

9 is, so I can't answer that.

MR. BUTZ: Existing capacity for events you

11 mean?

MS. ROBESON HANNAN: Yes.

13 MR. BUTZ: Yes, fine.

14 MS. ROBESON HANNAN: Okay. If you wouldn't

15 mind, I have to keep the record open for 10 days to get

16 the transcript, if you wouldn't mind looking up that

17 number. So DPS can -- you know, they have to inspect

18 every two years or something like that, so would you mind

19 looking that number up and submitting it into the record?

20 MR. HARRIS: Okay.

21 MS. ROBESON HANNAN: Okay. And do you have a

22 problem with a condition limiting sound to what's

23 permitted by the zoning ordinance?

24 MR. HARRIS: No problem.

25 MS. ROBESON HANNAN: Okay. Now the -- the

1 MR. BUTZ: So -- no, thank you for bringing that

up. So let's -- so let's go back to that. When I said

3 yes for an existing -- when I said yes to -- to limit

4 events to existing seating capacity, what I would like to

5 do is limit the -- the capacity of events to what's

6 currently permitted under what I have. I -- I don't want

7 to get less as part of my Country Inn zoning designation

8 process. That would potentially require that I bring in

9 temporary portable bathrooms, which is also currently

10 permitted. So to be clear, as part of -- as part of my

11 Country Inn rezone process, I (inaudible; technical

12 difficulties) more restrictions.

MS. ROBESON HANNAN: This is -- this is what I'm

14 trying to deal with, okay? Let me -- it's not trying to

15 cut you off of seats. What I'm trying to do is say to

16 you, if 227 people come during the peak period, what's

17 that going to do to the road?

MR. HARRIS: They -- they do not come during the

19 peak period. That's --

20 MS. ROBESON HANNAN: But your statement says you

21 want the events to come -- you know, you want these

22 special events to occur during the peak periods.

23 MR. BUTZ: I -- I would submit that even if they

24 did come on the peak period, Route 28 is an arterial road

25 that sees 14,000 trips a day. It's de minimus.

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1 special events, I don't think anything -- when you just

2 explained your special events, I'm -- I'm far less

3 concerned. The thing just the -- one of the statements

4 just said special events without limitation, and I didn't

5 know if that meant 227 people or -- or whatever. So if I

6 limit the number of seats, what are you going -- how do

7 you want to address -- I just have to address somehow

8 whether it's factual finding that the special events are

9 -- are they going to occur during the peak hour? And will

10 there be no impact, even if they do occur during the peak

11 hour?

MR. BUTZ: I -- I think perhaps the best way to

13 look at that is the special events that I'm currently

14 allowed under the -- under the Montgomery County Farm

15 Alcohol Statute and my Class Four Farm Winery License.

16 I'm not asking for any more special events than I'm

17 currently entitled to now.

MS. ROBESON HANNAN: So that goes up to 227 or

19 225 I think.

20 MR. BUTZ: Yeah.

21 MS. ROBESON HANNAN: Well, if you have --

22 MR. BUTZ: And that's --

MS. ROBESON HANNAN: If you have 225.

24 MR. BUTZ: Yeah, so actually --

25 MS. ROBESON HANNAN: Go ahead.

MS. ROBESON HANNAN: But -- okay. Can you

2 imagine 200 -- this what I'm trying to get to. Can you

3 imagine 225 people all trying to get into your place

4 during the peak period?

5 MR. HARRIS: I -- I can imagine that but as --

6 I'm sorry, go ahead.

MS. ROBESON HANNAN: Well, I just -- I'm trying

3 to get something to say you're not going to have a traffic

9 jam. That's the bottom line.

MR. BUTZ: I guess that the -- I'm not asking

11 for anything more than what I have today.

MS. ROBESON HANNAN: But I don't know what you

13 have.

14 MR. HARRIS: Yeah.

MR. BUTZ: You do know what I have because it's

16 in the farm alcohol law and my current class four.

MS. ROBESON HANNAN: No. No, you're trying to

18 say existing conditions. Well you -- it may be in the

19 farm alcohol law, but I don't know how many people are act

20 -- you're saying just to prove it as is because it's not

21 causing a problem, okay? But I don't know what -- but I

22 don't know what as is because I don't know what's going on

23 there. You're not having -- if you're not having 225

24 people a day, then tell me.

MR. HARRIS: There -- there definitely are not

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1 to --

41 225 people coming during peak period. 2 MR. BUTZ: I don't have the facilities for 3 events that large. MS. ROBESON HANNAN: Then tell me what your -tell me -- what you're saying -- well, first you're saying, I want what's permitted under the limited use standards, and then you're saying, I don't have the facilities, so what are your caps? MR. HARRIS: I'm -- I'm trying to look for that 10 right now because I -- I want to make sure this doesn't 11 get off track. The -- I -- I can't find the specific 12 paperwork ---13 MS. ROBESON HANNAN: I need a wine. I need a 14 glass of wine. 15 MR. BUTZ: Yeah, I can help with that. MS. ROBESON HANNAN: But not now. 16 17 MR. BUTZ: Yeah, yeah, yeah, yeah. I mean, I 18 guess, I -- I'll be honest with you; my -- my confusion is 19 -- is to where the concern's coming from because I'm not 20 asking for any more rights than what I currently have now. 21 MS. ROBESON HANNAN: But --2.2 MR. BUTZ: So I -- I -- what I'd like --MS. ROBESON HANNAN: You're not -- but this is 23 24 -- let me try again, okay? You don't have -- in a 25 conditional use, you don't have a right to a permitted 42

2 going to cause adverse impact. Right now, you have a permitted use that lets you have 225 people at one time on 4 your property. My -- my -- but my job here is to look at 5 the potential impact of that. So in the conditional use, you don't have a 6 7 right for that, so you have to tell me why having 225 8 people coming on the property could -- without limitation, 9 if they all came at once during peak period, why isn't 10 that a problem? And what I'm saying to you is: if you 11 want to approve what you have now, you have to tell me 12 what's actually going on now because you're not having the 13 225 people. MR. HARRIS: No, I -- I think that would -- may 15 have been a mistake. Here -- there -- there may be 225 16 people there at any given time, but number one, they're 17 not arriving during a peak period. Number two, the --MS. ROBESON HANNAN: When are they arriving? 18 19 MR. HARRIS: We lost --20 MS. ROBESON HANNAN: Your statement says they 21 are.

MR. HARRIS: Say it again. We -- we -- we lost

MR. BUTZ: Let me -- let me try to -- let me try

MS. ROBESON HANNAN: Can you hear me now?

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23 your audio a moment.

1 use, okay? You don't. You have to show that you're not

2 MR. HARRIS: Yep. 3 MR. BUTZ: Yeah, let me --MR. HARRIS: It's breaking up a little bit. 4 Yeah. MR. BUTZ: Let me -- let -- let me try to answer 6 it this way that I think might be helpful. While it's true -- I -- I have had -- I have had a couple of events at the 220 -- 200-person level, okay? I probably had 10 maybe, in the two years, I've maybe had four events that 11 large. More importantly though, in the normal course of 12 my business, I have in effect -- easily I could say that I 13 have 220 people showing up in a very close proximity. 14 It's not part of an event, it's part of my normal course 15 of business. But if you've ever been out to the winery on a 16 17 Saturday, for example, there are times where -- it's --18 it's very interesting to me that -- that -- it -- there's 19 a whole bunch of psychology that I've learned out here at 20 the winery about, like, when people show up, and it's like 21 -- it's like magic. Like on a Friday, everybody wants to 22 show up at my winery an hour and a half before sunset 23 because they can get a glass of wine and they've 24 calculated that's about the right amount of time they want 25 to spend on my property.

1 So in effect, actually my traffic surges during the day. And there -- and I can tell you emphatically that there are absolutely times that in effect I've had 225 people showing up around 5:00 on a Friday, for sure. Happens all the time. And I've never had a problem. 6 If you back to the event -- if you look at the event, an event of 225 people is likely going to require a bus. There's really only -- there are only two types of events that -- that -- that are that nature. One is a 10 wedding, which I don't do, although, I don't want to be 11 prohibited from doing. And the other's a corporate event. 12 Those are the only two types of events that have that. 13 Weddings always involve a bus and corporate events are 14 usually always involving some kind of carpool situation 15 because they all have designated drivers because it's a 16 work event. So if it's 225 people, the number of cars 17 you're talking about is -- is nowhere near that. And on a 18 road the size of 28, it's just not a problem. MR. HARRIS: Here -- here -- let me try this. I 20 -- I -- I do now see the -- the septic approval, the 21 number in there is 219 seats, okay? I don't see a problem 22 saying that the -- the Country Inn use will operate within 23 the approvals of the county septic system, either as it 24 now exists for the current system, or as it is permitted

25 to expand. But the bigger issue that I think really is

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1 central to this we keep coming back to is traffic. And MR. BUTZ: Because it's already happening now 1 2 you're right that there is no conditional use -- there's and it's not a problem. And I do not anticipate any more 3 no Country Inn traffic today, but there is winery traffic, traffic trips as part of my Country Inn. 4 okay? And they are one and the same. And, so even better MR. HARRIS: Ms. Robeson, it's kind of like 5 than a case where a traffic engineer comes in ahead of a okay, if -- if -- if I wanted to open a daycare center in 6 use being installed and predicts what the traffic will be my office building here in downtown Bethesda, okay? from that, we have actual evidence that it is not a Wisconsin Avenue has 20,000 cars a day traveling on it traffic problem. And -today, okay? And, you know, if -- if I can say that the MS. ROBESON HANNAN: Well, you don't because -daycare center is not going to add any traffic, it's not a 10 MR. HARRIS: -- because the traffic will be no 10 question of whether the 20,000 cars a day today -- a -- a 11 -- what's that? 11 day are causing a problem. That's background. That 12 MS. ROBESON HANNAN: No, go ahead. Go ahead. 12 already exists. And that's what we have here. 100 13 MR. HARRIS: No, so all -- all I'm saying is I 13 percent of the traffic that would come from this use is 14 just think that it, for -- for you to make the finding 14 already there, so there is zero additional impact. 15 that it -- it, you know, that public facilities are 15 MS. ROBESON HANNAN: Okay. Although, we do many 16 adequate. It -- it -- it's, you can say that, you know, 16 times stagger daycare arrivals to deal with the traffic, 17 there will be no additional demand on public facilities. 17 but what you're saying is it's -- but what you're saying 18 MS. ROBESON HANNAN: It's not the public 18 is that this is -- so you currently have capacity for 219? 19 facility. The septic capacity? 20 MR. HARRIS: Zero. 20 MR. HARRIS: Yes. 21 MS. ROBESON HANNAN: It's not the public 21 MR. BUTZ: Correct. 22 facility. 22. MS. ROBESON HANNAN: Okay. So -- so you're 23 MR. HARRIS: Okay. 23 saying that during the peak period you currently have 225 24 MS. ROBESON HANNAN: It says, Will not cause 24 people all showing up at once. 25 harm due to traffic, noise, odors, dust or lack of 25 MR. BUTZ: Yeah. 46 1 parking. That's what I'm looking for. Now, you've MS. ROBESON HANNAN: And that's part of the 1 addressed the parking. I think you've addressed the background. parking. You've addressed the, you know -- I don't --3 MR. HARRIS: All at once? 4 usually we have a photometric plan in the record showing 4 MR. BUTZ: In close proximity. 5 the illumination levels at the property line, but how big MR. HARRIS: Okay. 6 is this property? MR. BUTZ: Exactly. And I gave my evidence of 6 7 MR. BUTZ: 60 acres. the -- of the -- of the 6:00 p.m. on a Friday afternoon. MS. ROBESON HANNAN: So from -- yeah, so how MS. ROBESON HANNAN: Right. And to your 9 close -- let me do it this way. How close -- do you know 9 knowledge, you have never observed -- are you there every 10 how close the -- the -- you know, the event location is 10 day? 11 from the property line? 11 MR. BUTZ: Most -- I am there every -- every 12 MR. BUTZ: Yeah, it's about a thousand feet. 12 day's a bit of a stretch, but I'm there 80 percent of the 13 MR. HARRIS: That's in inches. 50 feet and 500 13 days. I -- I'm -- I work there a ton. I'm a -- I'm a 14 full-time -- full-time manager. 14 -- yes, it's probably more than a thousand feet. 15 MR. BUTZ: Yeah, it is -- it is more than a 15 MS. ROBESON HANNAN: Let -- let me ask it a 16 thousand feet. 16 different way. Have you been there during peak periods, 17 which are 4:00 to 7:00, or a peak hour, have you been MS. ROBESON HANNAN: Okay, so that's -- okay. 18 So now traffic and what I'm trying to get is if two -- if 18 there --19 I leave it unconditioned, 225 people or 219, whatever it 19 MR. BUTZ: Absolutely, it's --20 is, can all show up at 5:00. And it's difficult for me to 20 MS. ROBESON HANNAN: -- and observe 227 people 21 say that, you know, that's not going to cause a backup. 21 not causing a traffic jam?

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MR. BUTZ: Yes.

MS. ROBESON HANNAN: Okay.

25 it. Thank you for clarifying that Ms. Robeson.

MR. HARRIS: That's an excellent way to look at

22 So what do you have --

MR. BUTZ: Right, but I guess --

25 finish. What do you have to say to say that won't happen?

MS. ROBESON HANNAN: Just -- just -- just let me

23

49 51 MR. BUTZ: Right. I -- I -- actually the --MS. ROBESON HANNAN: Okay. How about five? Do 2 most of the times that I'm at the winery are during those you still meet five? 3 peak times because that's when I could help out staff the 3 MR. BUTZ: Yes. most. They -- they don't need me at 2:00 on a Friday, 4 MS. ROBESON HANNAN: Or have you already done 5 right? They -- they need me Friday afternoon or Saturday 5 that? or something like that when we're busy. 6 MR. BUTZ: Well, I'd say it's an annual MS. ROBESON HANNAN: Okay. Now that -- now that requirement. helps me. Sound, we're going to -- to do the limitation 8 MS. ROBESON HANNAN: Okay, so you do that 9 at the property line, right? annually? MR. HARRIS: Yes. 10 10 MR. BUTZ: Yeah. MS. ROBESON HANNAN: Now here's your onsite 11 MR. BUTZ: Correct. 11 MS. ROBESON HANNAN: I'm just trying to see if I 12 12 tasting room, which you're -- you're -- well, does this 13 have any other questions, so we don't have to delay this. 13 change, see what I'm point -- I'm pointing to section 14 Bear with me just one moment, so we don't have --14 seven. Does this change if with the -- with the class --15 MR. HARRIS: Sure. 15 the new license? MS. ROBESON HANNAN: -- I just want to make sure MR. BUTZ: No. 16 16 17 we don't have to come back. This doesn't impact -- can 17 MS. ROBESON HANNAN: You're saying you're going 18 you are -- am I -- can you see what I'm showing on my 18 to keep both licenses? 19 screen about farm alcohol production? 19 MR. HARRIS: Right. 20 MR. HARRIS: Yes. 20 MR. BUTZ: Yes. 21 MS. ROBESON HANNAN: Do you see anything in here 21 MS. ROBESON HANNAN: Okay. So you're not -- do 22 that you're not -- now you're changing -- you're changing 22 you do -- are -- do you keep a written log of all events? 23 your license, does that mean you don't qualify for the 23 MR. BUTZ: Yes. 24 class four? 24 MS. ROBESON HANNAN: Do you want larger events 25 MR. HARRIS: No -- no, we're keeping that class 25 or are you at your -- you're saying you're at your max? 50 52 four license because that's necessary for the wine making MR. BUTZ: The -- the 225 in that statute is 1 and the selling of the wine. They would be seeking a fine with me. 2 second or additional license. MS. ROBESON HANNAN: Okay. Okay. Illumination MS. ROBESON HANNAN: Okay. So that -- that at the property line. Okay. And you have 225 about? You one's okay. You -- you'll still have, obviously -- well, think you have 227 spaces or 225 spaces on site? 6 let -- you can testify. Are the ingredients still going 6 MR. BUTZ: Yeah. I counted 274 spaces. to be grown on site? MS. ROBESON HANNAN: Okay. Okay. We got this. 8 MR. BUTZ: Yes. Do you still meet any new building -- well, you're not at 9 MS. ROBESON HANNAN: At least partially? -- now, you're not adding a new building, right? It's 10 MR. BUTZ: Yes, for sure. 10 just you're changing the license to permit you more MS. ROBESON HANNAN: You still have five acres 11 flexibility to increase your menu and maybe have 12 of fruit used in alcohol onsite? 12 additional alcohol -- additional types of alcohol? 13 MR. BUTZ: Yeah, I believe the standard's 13 MR. BUTZ: And -- and there -- and there are no 14 actually 20 acres. And yes, we meet that standard. 14 dwelling units within the proximity anyway. MS. ROBESON HANNAN: Do you source a majority of 15 MS. ROBESON HANNAN: Okay. You're not 16 your grapes or other fruit from Maryland? 16 (inaudible) one? 17 MR. BUTZ: Yes. 17 MR. HARRIS: No. MS. ROBESON HANNAN: Will that continue to be MS. ROBESON HANNAN: Okay. All right. Do you 18 18 19 mind -- I just don't want to release everybody yet, I want 19 the case? 20 to go through these one more time so we don't have to come 20 MR. BUTZ: Yes. 21 MS. ROBESON HANNAN: Okay. I don't know what 21 back. 22 this one means. Are you still going to meet --22 MR. HARRIS: Sure. MR. BUTZ: We're not approved --23 MS. ROBESON HANNAN: Is there anything unusual 23 24 MS. ROBESON HANNAN: -- standard --24 about the characteristics of your winery versus other 25 MR. BUTZ: We're not approved. 25 wineries that you know of? Or are you the only winery in

October	21, 2022
53	55
1 operation right now?	1 MR. HARRIS: Okay.
2 MR. BUTZ: No, I feel our wine's better, but	2 MS. ROBESON HANNAN: I think we're good to
3 but no. Rocklands Rocklands is maybe five miles away	3 go. If if there is anything, the record stays open
4 from us and Sugar Loaf Mountain Vineyard is maybe 15 miles	4 from 10 10 calendar days, so until Halloween, which I'm
5 away from us. So both both wineries located in Western	5 sure will be a big event there.
6 Montgomery County and part of our proximity.	6 MR. HARRIS: All right. The second
7 MS. ROBESON HANNAN: And do they operate	7 MS. ROBESON HANNAN: But the record
8 similarly to you?	8 MR. HARRIS: I'm sorry. Second question was
9 MR. BUTZ: They do.	9 going to be, you had brought up Mark Beal, Park and
10 MS. ROBESON HANNAN: With the the large	10 Planning staff, and I know you sent him an e-mail this
11 events and things like that?	11 morning. Do we need to reach out to him or will you reach
12 MR. BUTZ: In in compliance with this farm	12 out to him so that he doesn't have to
13 alcohol statute, yes. So I don't know if they're in	MS. ROBESON HANNAN: I'm going to reach out to
14 compliance or not, but we have to meet the same we're	14 him. I'm going to reach out to him and say, you know,
15 currently occupy we're currently operating under the	15 this is the situation and you we're not going to send
16 same standards. I I don't know if they comply or not.	16 it back because it is what you reviewed.
17 MS. ROBESON HANNAN: Okay. Okay. I think we've	MR. HARRIS: Fine. Okay. That's excellent.
18 got enough in the record for me to make a decision. I do	MS. ROBESON HANNAN: Okay. So with that I'm
19 appreciate your taking the time to work through this. You	19 going to adjourn the hearing, leave the record open for 10
20 do have the opportunity when you want to expand well, I	20 days to receive the transcript, which would be 10-31-22.
21 can't give you advice as to what you may want to or	21 I have 30 days to write my decision; although, we do try
22 suggest, but you can come in and amend your conditional	22 to get it out more quickly than that. We just can't
23 use plan to include either just the wine tasting room or	23 always promise it. And once I issue the decision, you'll
24 the whole thing, the commercial kitchen, everything. And	24 get a notification by e-mail, Mr. Harris will. And you
25 and that would require and you can look up the	25 have the right, if you disagree with my decision, you have
54	56
1 definition of a major and a minor modification in 731-K,	1 the right to request oral argument before you have the
2 okay?	2 right to appeal to the board of appeals within 10 days,
So with that, I'm just the reason I asked you	3 okay?
4 those questions too is the DPS, they have to enforce this	4 MR. HARRIS: Okay.
5 and they like cut and dry, you know, it's helpful for them	5 MR. BUTZ: Okay.
6 and doesn't get you in trouble. If there ever is a	6 MS. ROBESON HANNAN: Okay. Go and relax now.
7 problem, it doesn't get you in trouble as to, you know,	7 MR. HARRIS: Thank you. Thank you.
8 what was required and what was permitted. All right, so I	8 MR. BUTZ: Thank you very much. I appreciate
9 do appreciate, you know, you're accepting my grilling, and	9 everything.
10 hopefully, you know, we will all visit the winery at some	MR. HARRIS: Have a great weekend.
11 point.	MS. ROBESON HANNAN: Okay. Thank you.
MR. HARRIS: Indeed.	(Off the record at 10:59 AM.)
MS. ROBESON HANNAN: Anything else anything	13
14 else you'd like to say?	14
MR. HARRIS: One comment and two brief	15
16 questions. Number one, the comment: thank you for your	16
17 patience with us as we worked through this. Two	17
18 questions, one is: with our abbreviation of the request, I	18
19 don't think there was any additional information we need	19
20 to provide you or was there anything else that you need	20
21 for the record?	21
MS. ROBESON HANNAN: I don't think there is	22
23 because it's clear, if you're not adding a new structure,	23
24 this is what staff reviewed, and I don't have to send it	24
25 back, so	25

		57	
1	CERTIFICATE OF COURT REPORTER		
2	I, Caleb Welsh, the officer		
3	before whom the foregoing proceedings were taken,		
4	do hereby certify that said proceedings were		
5	electronically recorded by me; and that I am		
6	neither counsel for, related to, nor employed by		
7	any of the parties to this case and have no		
8	interest, financial or otherwise, in its outcome.		
	interest, infancial of otherwise, in its outcome.		
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1	CERTIFICATION OF TRANSCRIPT	58	
1 2	CERTIFICATION OF TRANSCRIPT I, Olivia I. Wilke, do hereby certify that the	58	
1 2 3	CERTIFICATION OF TRANSCRIPT I, Olivia I. Wilke, do hereby certify that the foregoing transcript, to the best of my ability,	58	
1 2	CERTIFICATION OF TRANSCRIPT I, Olivia I. Wilke, do hereby certify that the foregoing transcript, to the best of my ability, knowledge, and belief, is a true and correct	58	
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1 2 3 4 5	CERTIFICATION OF TRANSCRIPT I, Olivia I. Wilke, do hereby certify that the foregoing transcript, to the best of my ability, knowledge, and belief, is a true and correct record of the proceedings; that said proceedings	58	
1 2 3 4 5 6	CERTIFICATION OF TRANSCRIPT I, Olivia I. Wilke, do hereby certify that the foregoing transcript, to the best of my ability, knowledge, and belief, is a true and correct record of the proceedings; that said proceedings were reduced to typewriting under my supervision;	58	
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